

Verizon New England Inc.

State of Rhode Island

Docket 3363

Respondent: Tom Maguire

Title: Vice President – Network
Services Group

REQUEST: Rhode Island Public Utilities Commission, Set 1

DATED: August 15, 2001

ITEM: PUC-CON 1-11 The following questions are in reference to the attached letter appearing on the Verizon.com website: “DS1 and DS3 Unbundled Network Elements Policy”, July 24, 2001 (downloaded from http://www22.verizon.com/wholesale/frames/generic_frame_east/0,2656,industry_letters,00.html, on August 1, 2001).

- a. Please provide a copy of the letter.
- b. The letter states (para. 2) that “Conversely, Verizon is not obligated to construct new Unbundled Network Elements where such network facilities have not already been deployed for Verizon’s use in providing service to its wholesale and retail customers.” Please provide a legal citation to every statute or ruling which Verizon believes supports that statement.
- c. “Moreover, although Verizon has no legal obligation to add DS1/DS3 electronics to available wire or fiber facilities to fill a CLEC order for an unbundled DS1/DS3 network element...” Please provide a legal citation to every statute or ruling which Verizon believes supports that statement.
- d. Does Verizon-RI believe that the statements referenced in parts a. and b. above apply to its operations in Rhode Island? If the answer is anything but an unqualified yes, explain in detail how its legal obligations in Rhode Island differ from those holding in other states, relative to each of these statements.

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- e. Has Verizon or Verizon-RI ever issued a statement concerning its policies concerning the construction of new DS1 and/or DS3 facilities relative to its provision of retail services, including but not necessarily limited to Flexpath T-1 exchange access lines/trunks? If the answer is yes, please provide a copy of that statement. If the answer is no, please describe in detail the policy that Verizon-RI applies to orders for retail Flexpath T-1 exchange access lines/trunks when facilities are not initially available to fulfill the order.

REPLY:

- a. Please see the letter attached.
- b. The FCC's definition of the local loop network element supports the position that ILECs are not required to construct new Unbundled Network Elements where such network facilities have not already been deployed for Verizon's use in providing service to its wholesale and retail customers nor to add DS1/DS3 electronics to available wire or fiber facilities to fill a CLEC order for an unbundled DS1/DS3 network element. Under 47 C.F.R. § 51.319(a), ILECs must provide requesting carriers access to the local loop and subloop. Subsection 51.319(a)(1) of the FCC's regulation provides that

[t]he local loop network element is defined as "a transmission facility between a distribution frame . . . and the loop demarcation point at an end-user customer premises, including inside wire owned by the incumbent LEC. The local loop network element includes all features, functions and capabilities of such transmission facility. Those features, functions and capabilities include, but are not limited to, dark fiber, attached electronics (except those electronics used for the provision of advanced services, such as [DSLAMs]), and line conditioning. (emphasis added)

As this provision indicates, the "features, functions and capabilities" that a CLEC may avail itself of include attached electronics, meaning electronics already connected to the wire or fiber, in contrast to unattached electronics.

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The fact that Verizon RI must condition wire facilities, including conditioning them so that they can pass signals at a DS1 rate, similarly does not mean Verizon RI must add or attach electronics to a copper or fiber facility. Under Subsection 51.319(a)(3)(i) of the FCC's regulations,

Line conditioning is defined as the removal from the loop of any devices that may diminish the capability of the loop to deliver high speed switched wireline telecommunications capability, including xDSL service. Such devices include, but are not limited to, bridge taps, low pass filters, and range extenders. (emphasis added)

Nothing in this definition, or in the FCC's related discussion in the *UNE Remand Order*, suggests that an ILEC must, as part of its line conditioning obligations, add or attach electronics to a copper or fiber facility.

More broadly, the 1996 Act only requires incumbent carriers to unbundle their existing network, not to construct network elements simply to make them available on an unbundled basis to competing carriers. As the Eighth Circuit explained, "subsection 251(c)(3) implicitly requires unbundled access only to an incumbent LEC's existing network - not to a yet unbuilt superior one." *Iowa Util. Bd. v. FCC*, 120 F.3d 753, 813 (8th Cir. 1997), appealed on other grounds, *AT&T Corp. v. Iowa Utils. Bd.*, 119 S. Ct. 721, 737 (1999).

- c. Please see the Company's reply to part b above.
- d. The statements referenced in parts a. and b. as well as c. above apply to Verizon's operations in Rhode Island.
- e. Verizon RI objects to this request on the grounds that it would require a burdensome and time-consuming record search. Notwithstanding its objection, Verizon RI responds as follows. Verizon RI is not aware of any written statement(s) issued to retail customers concerning its construction policies.



July 24, 2001

DS1 and DS3 Unbundled Network Elements Policy

A number of carriers have recently expressed concern that Verizon is changing its policies with respect to the construction of new DS1 and DS3 Unbundled Network Elements. This is not the case. To ensure that there is no misunderstanding on this point this letter restates Verizon's policies and practices with respect to the provisioning of unbundled DS1 and DS3 network elements.

In compliance with its obligations under applicable law, Verizon will provide unbundled DS1 and DS3 facilities (loops or IOF) to requesting CLECs where existing facilities are currently available. Conversely, Verizon is not obligated to construct new Unbundled Network Elements where such network facilities have not already been deployed for Verizon's use in providing service to its wholesale and retail customers. This policy, which is entirely consistent with Verizon's obligations under applicable law, is clearly stated in Verizon's relevant state tariffs and the CLEC Handbook, and is reflected in the language of Verizon's various interconnection agreements.

This does not mean that CLECs have no other options for obtaining requested facilities from Verizon.

- In areas where Verizon has construction underway to meet anticipated future demand, Verizon's field engineers will provide a due date on CLEC orders for unbundled DS1 and DS3 network elements based on the estimated completion date of that pending job, even though no facilities are immediately available. Rigid adherence to existing policies could dictate that the field engineers reject these orders due to the lack of available facilities; but in an effort to provide a superior level of service, Verizon has chosen not to do so. In such cases, the result is that the order is filled, but the provisioning interval is longer than normal. At the same time, Verizon's wholesale customers should not confuse these discretionary efforts to provide a superior level of service with a perceived *obligation* to construct new facilities.
- Moreover, although Verizon has no legal obligation to add DS1/DS3 electronics to available wire or fiber facilities to fill a CLEC order for an unbundled DS1/DS3 network element, Verizon's practice is to fill CLEC orders for unbundled DS1/DS3 network elements as long as the central office common equipment and equipment at end user's location necessary to create a DS1/DS3 facility can be accessed. However, Verizon will reject an order for an unbundled DS1/DS3 network element where (i) it does not have the common equipment in the central office, at the end user's location, or outside plant facility needed to provide a DS1/DS3 network element, or (ii) there is no available wire or fiber facility between the central office and the end user.
- Specifically, when Verizon receives an order for an unbundled DS1/DS3 network element, Verizon's Engineering or facility assignment personnel will check to see if existing common equipment in the central office and at the end user's location has spare ports or slots. If there is capacity on this common equipment, operations personnel will perform the cross connection work between the common equipment

and the wire or fiber facility running to the end user and install the appropriate DS1/DS3 cards in the existing multiplexers. They will also correct conditions on an existing copper facility that could impact transmission characteristics. Although they will place a doubler into an existing apparatus case, they will not attach new apparatus cases to copper plant in order to condition the line for DS1 service. At the end user's end of the wire or fiber facility, Verizon will terminate the DS1/DS3 loop in the appropriate Network Interface Device (Smart Jack or Digital Cross Connect (DSX) Panel).

In addition, if Verizon responds to a CLEC request for an unbundled DS1/DS3 network element with a Firm Order Completion date (FOC), indicating that Verizon has spare facilities to complete the service request, and if Verizon subsequently finds that the proposed spare facilities are defective, Verizon will perform the work necessary to clear the defect. In the event that the defect cannot be corrected, resulting in no spare facilities, or if Verizon has indicated that there are spare facilities and Verizon subsequently finds that there are no spare facilities, Verizon will not build new facilities to complete the service request.

Finally, wholesale customers of Verizon, like its retail customers, may request Verizon to provide DS1 and DS3 services pursuant to the applicable state or federal tariffs. While these tariffs also state that Verizon is not obligated to provide service where facilities are not available, Verizon generally will undertake to construct the facilities required to provide service at tarified rates (including any applicable special construction rates) if the required work is consistent with Verizon's current design practices and construction program. Even in these cases, of course, Verizon must retain the right to manage its construction program on a dynamic basis as necessary to meet both its service obligations and its obligation to manage the business in a fiscally prudent manner.

In summary, although Verizon's policies regarding the construction of new DS1 and DS3 Unbundled Network Elements remain unchanged, Verizon continues to strive to meet the requirements of its wholesale customers for unbundled DS1 and DS3 facilities in a manner that is consistent with the sound management of its business.

If you have any questions regarding Verizon's unbundled DS1/DS3 building practice, you may contact your Account Manager.

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ITEM: PUC-CON 1-12 For each month beginning in January 2000 and extending to the most recent month for which data is available, provide the following information. In your response, please provide a breakdown by wire center, if available.

- a. The total number of orders for Flexpath T-1 exchange access lines/trunks which were rejected due to a determination by Verizon-RI that facilities were not available.
- b. The total number of orders for T-1 Special Access lines which were rejected due to a determination by Verizon-RI that facilities were not available.
- c. The total number of orders for T-1 UNE loops which were rejected due to a determination by Verizon-RI that facilities were not available.

REPLY: Verizon RI does not track the reason(s) why a retail or wholesale order may be rejected (e.g., due to a lack of facilities). As a general matter, retail orders are not rejected due to a lack of facilities because Verizon generally will undertake to construct the facilities required to provide service at tariffed rates (including any applicable special construction rates) if the required work is consistent with Verizon's current design practices and construction. Like its retail and carrier access customers, Verizon's CLEC customers may request Verizon to provide DS1 and DS3 services pursuant to the applicable state or federal tariffs.

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